
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement, Jr.

DIGEST

Present law provides that on a first conviction of operating a vehicle while intoxicated, the offender is to be fined not less than \$300 nor more than \$1,000, and imprisoned for not less than 10 days nor more than six months. Present law further provides that imposition or execution of sentence can be suspended under certain circumstances.

Proposed law provides that the offender is to be fined not less than \$300 nor more than \$1,000, and imprisoned for not less than 48 hours nor more than six months. Proposed law further provides that imposition or execution of sentence cannot be suspended.

Proposed law provides that on a first conviction, if the offender had a blood alcohol concentration of 0.15 percent or more, he is to be fined not less than \$500 nor more than \$1,000, and imprisoned for not less than three days nor more than six months. Proposed law further provides that imposition or execution of sentence cannot be suspended.

Proposed law provides that on a first conviction, if the offender had a blood alcohol concentration of 0.20 percent or more, he is to be fined not less than \$750 dollars nor more than \$1,000, and is to be imprisoned for not less than five days nor more than six months. Proposed law further provides that imposition or execution of sentence cannot be suspended.

Proposed law provides that on a conviction of a first offense when the crime of vehicular homicide or first degree vehicular negligent injuring occurs, the offender is to be imprisoned with or without hard labor for not less than one year nor more than five years, without benefit of probation, parole, or suspension of sentence, and is to be fined \$2,000. Proposed law further provides that the offender must immediately undergo an evaluation by the Dept. of Health and Hospitals, office of behavioral health, to determine the nature and extent of the offender's substance abuse disorder and the offender must participate in any treatment plan recommended by the office of behavioral health.

Present law provides that on a conviction of a second offense of operating a vehicle while intoxicated, and regardless of whether the second offense occurred before or after the first conviction, the offender is to be fined not less than \$750 nor more than \$1,000, and is to be imprisoned for not less than 30 days nor more than six months. Present law further provides that at least 48 hours of the sentence is to be served without benefit of parole, probation, or suspension of sentence. Present law further provides that the offender may be sentenced to home incarceration, and provides that imposition or execution of sentence can be suspended under certain circumstances.

Proposed law provides that on a second conviction, the offender is to be fined not less than \$1,000 nor more than \$2,000, and imprisoned for not less than 30 days nor more than six months.

Proposed law further provides that at least 15 days of the sentence is to be served without benefit of parole, probation, home incarceration, or suspension of sentence. Proposed law further provides that upon completion of the portion of the sentence that cannot be suspended, the offender may serve home incarceration. Proposed law further provides that imposition or execution of the remainder of the sentence cannot be suspended.

Present law provides that on a conviction of a second offense operating a vehicle while intoxicated, when the first offense was for the crime of vehicular homicide or first degree vehicular negligent injuring, the offender is to be imprisoned with or without hard labor for not less than one year nor more than five years, and fined \$2,000. Present law further provides that at least six months of the sentence of imprisonment is to be served without benefit of probation, parole, or suspension of sentence, and imposition or execution of the remainder of the sentence can only be suspended if the offender complies with certain provisions of present law.

Proposed law provides that on a second conviction, when the first offense was for the crime of vehicular homicide or first degree vehicular negligent injuring, the offender is to be imprisoned with or without hard labor for not less than two years nor more than five years, and fined \$2,000.

Proposed law further provides that the entire sentence of imprisonment is to be without benefit of probation, parole, or suspension of sentence, and imposition or execution of sentence cannot be suspended. Proposed law further provides that the offender must immediately undergo an evaluation by the Dept. of Health and Hospitals, office of behavioral health, to determine the nature and extent of the offender's substance abuse disorder and the offender must participate in any treatment plan recommended by the office of behavioral health.

Present law provides that on a conviction of a third offense of operating a vehicle while intoxicated, the offender is to be imprisoned with or without hard labor for not less than one year nor more than five years and fined \$2,000. Present law further provides that one year of the sentence of imprisonment is to be imposed without benefit of probation, parole, or suspension of sentence.

Proposed law provides that on a third conviction, the offender is to be imprisoned with or without hard labor for not less than three years nor more than ten years and fined \$2,000.

Proposed law further provides that the entire sentence of imprisonment is to be imposed without benefit of probation, parole, or suspension of sentence. Proposed law further requires the offender immediately to undergo an evaluation by the Dept. of Health and Hospitals, office of behavioral health, to determine the nature and extent of the offender's substance abuse disorder and to participate in any treatment plan recommended by the office of behavioral health, including treatment in an inpatient facility approved by the office for a period of not less than four weeks followed by outpatient treatment services for a period not to exceed twelve months. Proposed law further requires the offender to participate in substance abuse treatment in an alcohol and drug abuse program provided by a drug division subject to the applicable provisions of present law.

Present law provides that the court, in its discretion, may suspend all or any part of the remainder of the sentence of imprisonment. Present law further provides that if any portion of the sentence is suspended, the offender shall be placed on supervised probation with the Department of Public Safety and Corrections, division of probation and parole, for a period of time equal to the remainder of the sentence of imprisonment, which probation shall commence on the day after the offender's release from custody. Present law further provides that any offender placed on probation pursuant to the provisions of present law is required as a condition of probation to participate in 30 eight-hour days of court-approved community service activities and to submit to and complete certain requirements of present law.

Proposed law deletes these provisions of present law.

Present law provides relative to home incarceration for offenders placed on probation pursuant to present law.

Proposed law deletes these provisions of present law.

Present law provides that on a conviction for a fourth or subsequent offense operating a vehicle while intoxicated, regardless of whether the fourth offense occurred before or after an earlier conviction, the offender is to be imprisoned with or without hard labor for not less than 10 years nor more than 30 years, and fined \$5,000.

Proposed law retains these provisions of present law and adds that the offender must immediately undergo an evaluation by the Dept. of Health and Hospitals, office of behavioral health, to determine the nature and extent of the offender's substance abuse disorder and to participate in any treatment plan recommended by the office of behavioral health, including treatment in an inpatient facility approved by the office for a period of not less than four weeks followed by outpatient treatment services for a period not to exceed 12 months, and must participate in substance abuse treatment in an alcohol and drug abuse program provided by a drug division subject to the applicable provisions of present law.

Present law provides that two years of the sentence of imprisonment on a fourth conviction are to be served without benefit of probation, parole, or suspension of sentence.

Proposed law requires that the entire sentence of imprisonment is to be served without benefit of probation, parole, or suspension of sentence.

Present law provides that on a fourth conviction, the offender is to be imprisoned with or without hard labor for not less than 10 years nor more than 30 years, and fined \$5,000.

Present law further provides that two years of the sentence of imprisonment are to be served without benefit of probation, parole, or suspension of sentence.

Present law provides that on a fourth conviction, the court may suspend all or any part of the remainder of the sentence of imprisonment, and if any portion of the sentence is suspended, the

offender is to be placed on supervised probation with the Dept. of Public Safety and Corrections, division of probation and parole, for a period of time not to exceed five years.

Present law further provides that any offender placed on probation is required, as a condition of probation, to participate in 40 eight-hour days of court-approved community service activities and to submit to and complete certain present law requirements.

Proposed law deletes these provisions of present law.

Present law provides relative to home incarceration for offenders placed on probation pursuant to present law.

Proposed law deletes these provisions of present law.

Present law provides that an offender ordered to participate in a substance abuse program must pay the cost incurred in participating in the program, and failure to make such payment subjects the offender to revocation of probation, unless the court determines that the offender is unable to pay. Present law further provides that if the court determines that the offender is unable to pay, the state shall pay for the cost of the substance abuse treatment.

Proposed law retains these provisions of present law.

Present law provides that an offender sentenced to home incarceration and to participate in a driver improvement program shall pay the cost incurred in participating in home incarceration and a driver improvement program unless the court determines that the offender is unable to pay.

Proposed law deletes this provision of present law.

Present law provides that upon conviction of a third or subsequent offense operating a vehicle while intoxicated, any motor vehicle, while being operated by the offender, must be equipped with a functioning ignition interlock device in accordance with the provisions of present law. Present law further provides that the ignition interlock device must remain installed and operative until the offender has completed the requirements of substance abuse treatment and home incarceration under the provisions of present law.

Proposed law deletes the applicability of present law to home incarceration. Proposed law otherwise retains present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 14:98(B), (C), (D)(1), (E)(1), (I), and (K)(3)(a))